

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

Civil No. 5:10-cv-0013-DCB
Criminal No. 5:07-cr-017-DCB

CHARLES EDWARD PRICE

ORDER

Before the court is defendant-petitioner Charles Edward Price's Rule 60(d) Motion for Relief from Judgment. Petitioner has not made it clear why the motion is filed pursuant to Rule 60(d), but the court construes it either as a Rule 60(b) motion, or as alleging fraud on the court pursuant to Rule 60(d)(3). Regardless of its procedural basis, petitioner challenges the court's dismissal of his § 2255 motion to vacate by rehashing arguments this court has already rejected. More to the point, he has identified no fraud or other defect in his habeas proceedings that entitles him to relief pursuant to either Rule 60(b) or 60(d). The court therefore deems petitioner's motion to be an unauthorized successive writ. See Gonzalez v. Crosby, 545 U.S. 524, 529 (2005); see Hughes v. Thaler, 2012 WL 5456104, at *3 n.1 (Nov. 7, 2012) (unpublished) (indicating that Gonzalez v. Crosby applies to both Rule 60(b) and Rule 60(d) motions).

Accordingly, **IT IS HEREBY ORDERED** that Petitioner's Rule 60(d) Motion for Relief from Judgment [docket no. 383] is **DENIED**. Further, a certificate of appealability is required for appellate

review of this determination, see Buck v. Thaler, 452 F. App'x 423, 429 (2011). But because there are no debatable issues for appeal, see Slack v. McDaniel, 529 U.S. 473, 484 (2000), this court declines to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c).

So **ORDERED**, this the 15th day of August, 2013.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE